

REMARKS

The indication that claims 2-7, 9-17, 19-22, and 24 include patentable subject matter is acknowledged with thanks.

Claims 1, 8, 18 were rejected as unpatentable over ROY 6,600,725 in view of YAMANO 6,314,088. Reconsideration and withdrawal of the rejection are respectfully requested because YAMANO is disqualified as prior art by operation of §103(c).

The present application was filed on August 29, 2001. YAMANO issued as a U.S. patent on November 6, 2001. Therefore, YAMANO is available as a reference only under §102(e).

MPEP §706.02(1)(1) states that effective November 29, 1999, subject matter that was prior art under 35 USC §103 via 35 USC §102(e) is disqualified as prior art against the claimed invention if the subject matter in the claimed invention "were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

MPEP §706.02(1)(2) states that "commonly owned" means wholly owned by the same person or organization at the time the claimed invention was made. The present application is under assignment to NEC Corporation of Tokyo, Japan. YAMANO lists NEC Corporation of Tokyo, Japan as the assignee.

Applicants assert that at the time the invention was made, YAMANO and the present invention were commonly owned by NEC Corporation.

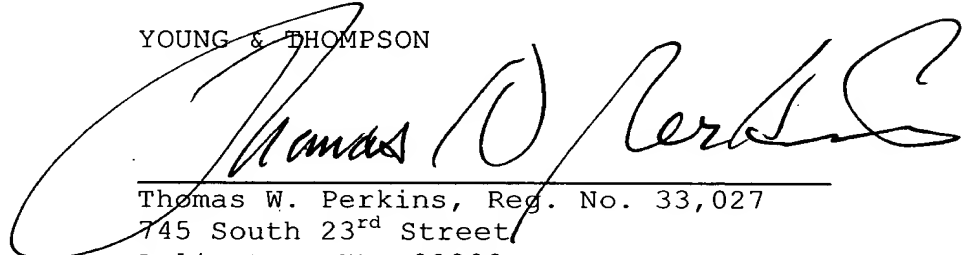
Accordingly, 35 USC §103(c) applies to each of claims 1, 8 and 18 in which YAMANO is used as a reference. Since YAMANO is disqualified as prior art under 35 USC §103(c), claims 1, 8, and 18 are patentable.

In view of the foregoing remarks, it is believed that the present application has been placed in condition for allowance. Reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

A large, stylized handwritten signature in black ink, which appears to read "Thomas W. Perkins". The signature is written over a horizontal line that separates it from the printed contact information below.

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